

HOUSE BILL 1033

M3

(11r2730)

ENROLLED BILL

— Environmental Matters/Judicial Proceedings —

Introduced by **Delegates Oaks and McIntosh**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Environment – Reducing Lead Risk in Housing – ~~Lead Paint Dust Testing~~**
3 **Risk Reduction Standards**

4 FOR the purpose of altering the requirements for the owner of a certain affected
5 property to ~~initially~~ satisfy a certain lead-risk reduction standard; altering a
6 certain requirement relating to certain inspections of certain affected
7 properties; altering the performance components required under a certain
8 modified risk reduction standard; altering the information that the owner of a
9 certain affected property is required to submit to verify satisfaction of a certain
10 modified risk reduction standard; repealing certain requirements relating to a
11 tenant’s failure or refusal to verify the statement of work performed on a certain
12 affected property; repealing an alternative to satisfying a certain modified risk
13 reduction standard; altering certain provisions relating to a certain rebuttable
14 presumption related to verification of a certain modified risk reduction
15 standard; repealing certain requirements for a certain statement relating to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 work performed on an affected property; authorizing certain civil penalties for
 2 certain enforcement actions; making certain conforming changes; requiring the
 3 Department of the Environment, in consultation with certain persons, to
 4 conduct a certain study to evaluate processes that reduce the incidence of lead
 5 poisoning in certain properties and submit a certain report to the General
 6 Assembly by a certain date; requiring the Department to adopt certain
 7 regulations; providing for a delayed effective date for certain provisions of this
 8 Act; and generally relating to reducing lead risk in housing.

9 BY repealing and reenacting, with amendments,

10 Article – Environment

11 Section ~~6–815(a) and (b)~~ 6–815(a), (b), and (c), 6–816, and 6–819(a), (e), (f), and
 12 (k), and 6–850(a)

13 Annotated Code of Maryland

14 (2007 Replacement Volume and 2010 Supplement)

15 BY repealing and reenacting, without amendments,

16 Article – Environment

17 Section ~~6–819(e)~~ 6–819(c) and (d)

18 Annotated Code of Maryland

19 (2007 Replacement Volume and 2010 Supplement)

20 BY adding to

21 Article – Environment

22 Section 6–819(e)

23 Annotated Code of Maryland

24 (2007 Replacement Volume and 2010 Supplement)

25 BY repealing

26 Article – Environment

27 Section 6–819(g)

28 Annotated Code of Maryland

29 (2007 Replacement Volume and 2010 Supplement)

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 31 MARYLAND, That the Laws of Maryland read as follows:

32 **Article – Environment**

33 6–815.

34 (a) No later than the first change in occupancy in an affected property that
 35 occurs on or after February 24, 1996, before the next tenant occupies the property, an
 36 owner of an affected property shall initially satisfy the risk reduction standard
 37 established under this subtitle by:

1 ~~(1)~~ ~~Passing~~ PASSING the test for lead-contaminated dust under §
2 6-816 of this subtitle provided that ~~any~~ chipping, peeling, or flaking paint has been
3 removed or repainted on:

4 ~~(i)~~ (1) The exterior painted surfaces of the residential building in
5 which the rental dwelling unit is located; and

6 ~~(ii)~~ (2) The interior painted surfaces of the rental dwelling
7 unit; ~~or] NO INTERIOR OR EXTERIOR SURFACES OF THE AFFECTED PROPERTY~~
8 ~~HAVE CHIPPING, PEELING, OR FLAKING PAINT; AND~~

9 ~~(2)~~ Performing the following lead hazard reduction treatments:

10 ~~(i)~~ ~~[A visual review of all exterior and interior painted surfaces;~~

11 ~~(ii)~~ ~~The removal and repainting of chipping, peeling, or flaking~~
12 ~~paint on exterior and interior painted surfaces;~~

13 ~~(iii)~~ ~~The repair of any structural defect that is causing the paint~~
14 ~~to chip, peel, or flake that the owner of the affected property has knowledge of or, with~~
15 ~~the exercise of reasonable care, should have knowledge of;~~

16 ~~(iv)]~~ ~~[Stripping and repainting]~~ REPAINTING, replacing, or
17 encapsulating all interior ~~LEAD-BASED PAINT OR UNTESTED PAINTED~~ windowsills
18 with vinyl, metal, or any other material in a manner and under conditions approved
19 by the Department;

20 ~~(v)]~~ (II) ~~[Ensure]~~ ENSURING that caps of vinyl, aluminum, or
21 any other material in a manner and under conditions approved by the Department,
22 are installed in all window wells ~~WHERE LEAD-BASED PAINT OR UNTESTED PAINT~~
23 ~~EXISTS~~ in order to make the window wells smooth and cleanable;

24 ~~(vi)]~~ (III) ~~Except for a treated or replacement window that is~~
25 ~~free of lead-based paint on its friction surfaces, fixing the top sash, SUBJECT TO~~
26 ~~LOCAL FIRE CODE STANDARDS,~~ of all windows in place in order to eliminate the
27 ~~friction caused by movement of the top sash;~~

28 ~~(vii)]~~ (IV) ~~Rehanging all doors necessary in order to prevent the~~
29 ~~rubbing together of a lead-painted surface with another surface;~~

30 ~~(viii)]~~ (V) ~~Making all bare floors smooth and cleanable;~~

31 ~~(ix)]~~ (VI) ~~[Ensure]~~ ENSURING that all kitchen and bathroom
32 ~~floors are overlaid with a smooth, water-resistant covering; and~~

1 ~~[(x)] (VII) HEPA vacuuming and washing of the interior of the~~
 2 ~~affected property with high phosphate detergent or its equivalent, as determined by~~
 3 ~~the Department.~~

4 (b) At each change in occupancy thereafter, before the next tenant occupies
 5 the property, the owner of an affected property shall satisfy the risk reduction
 6 standard established under this subtitle by:

7 ~~(1) Passing~~ PASSING the test for lead-contaminated dust under §
 8 6-816 of this subtitle IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION;
 9 ~~[or] AND~~

10 ~~(2) (i) Repeating the lead hazard reduction treatments specified in~~
 11 ~~subsection (a)(2)(i), (ii), (iii), and (x) of this section; and~~

12 ~~(ii) Ensuring that the lead hazard reduction treatments~~
 13 ~~specified in subsection (a)(2)(iv), (v), (vi), (vii), (viii), and (ix) of this section are still in~~
 14 ~~effect.~~

15 (c) [Except for affected properties that pass a test for lead-contaminated
 16 dust under § 6-816 of this subtitle, at] AT each change in occupancy, an owner of an
 17 affected property shall have the property inspected to verify that the risk reduction
 18 standard specified in this section has been satisfied.

19 6-816.

20 The Department shall establish procedures and standards for the [optional]
 21 lead-contaminated dust testing by regulation.

22 6-819.

23 (a) The modified risk reduction standard shall consist of performing the
 24 following [lead hazard reduction treatments]:

25 (1) PASSING THE TEST FOR LEAD-CONTAMINATED DUST UNDER §
 26 6-816 OF THIS SUBTITLE; AND

27 (2) PERFORMING THE FOLLOWING LEAD HAZARD REDUCTION
 28 TREATMENTS:

29 ~~(1)~~ (I) A visual review of all exterior and interior painted surfaces;

30 ~~(2)~~ (II) The removal and repainting of chipping, peeling, or flaking
 31 paint on exterior and interior painted surfaces;

1 [(2) (i) If the tenant fails or refuses to verify the statement of work
2 performed on the affected property, the owner shall within 5 business days of the
3 failure or refusal, contact an inspector accredited under § 6–818(a) of this subtitle to
4 inspect the affected property.

5 (ii) The inspector’s report shall either certify that the work
6 required to be performed under this section was satisfactorily completed or specify
7 precisely what additional work is required.

8 (iii) If additional work is required:

9 1. The owner shall have 20 days after receipt of the
10 inspector’s report in which to perform the work, subject to a weather delay under the
11 provisions of subsection (j) of this section; and

12 2. The inspector shall reinspect the affected property
13 after the additional work is completed and:

14 A. Issue a report certifying that the work is complete;
15 and

16 B. Mail a copy of the report to the tenant, the owner, and
17 the Department within 10 days after the inspection or reinspection.】

18 [(g) In lieu of satisfying the modified risk reduction standard, the owner of an
19 affected property may elect to pass the test for lead–contaminated dust under § 6–816
20 of this subtitle provided that any chipping, peeling, or flaking paint has been removed
21 or repainted on:

22 (1) The exterior painted surfaces of the residential building in which
23 the rental dwelling unit is located; and

24 (2) The interior painted surfaces of the rental dwelling unit.】

25 (k) [(1)] The [statement verified by the owner and the tenant of work
26 performed on the affected property in accordance with subsection (f)(1) of this section
27 or the final] report of the inspector verifying [that work was performed on the affected
28 property in accordance with subsection (f)(2) of this section] **COMPLIANCE WITH THIS**
29 **SUBTITLE** shall create a rebuttable presumption, that may be overcome by clear and
30 convincing evidence, that the owner is in compliance with the modified risk reduction
31 standard for the affected property unless there is:

32 (i) Proof of actual fraud as to that affected property; or

1 (ii) Proof that the work performed on the affected property was
 2 not performed by or under the supervision of personnel accredited under § 6–1002 of
 3 this title.

4 [(2) The statement verified by the owner and the tenant of work
 5 performed on the affected property in accordance with subsection (f)(1) of this section
 6 shall contain a statement:

7 (i) Describing the modified risk reduction standard required
 8 under this subtitle;

9 (ii) That execution of this statement by the tenant can affect the
 10 tenant's legal rights; and

11 (iii) That if the tenant is not satisfied that the modified risk
 12 reduction standard has been met, the tenant should not execute the statement and
 13 should inform the owner and that the owner will have the affected property inspected
 14 by a certified inspector at the owner's expense.]

15 6–850.

16 (a) Except as provided in § 6–849 of this subtitle, in addition to any other
 17 remedies provided in this subtitle, the provisions and procedures of §§ 7–256 through
 18 7–264 and 7–266[(b)] of this article shall be used and shall apply to enforce violations
 19 of this subtitle, provided that the penalty imposed under § 7–266(b)(2)(i) of this article
 20 may not exceed \$500 per day for any violation of this subtitle.

21 ~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect~~
 22 ~~October 1, 2011.~~

23 SECTION 2. AND BE IT FURTHER ENACTED, That:

24 (a) The Department of the Environment shall conduct a study to evaluate
 25 processes that reduce the incidence of lead poisoning in affected and nonaffected
 26 properties, including rental properties built from 1950 through 1978 and
 27 owner-occupied properties.

28 (b) The Department of the Environment shall conduct the study required
 29 under subsection (a) of this section in consultation with:

30 (1) ~~one member~~ two members of the Senate of Maryland, one of whom
 31 shall be a member of the minority party, appointed by the President of the Senate;

32 (2) ~~two~~ three members of the House of Delegates, one of whom shall be
 33 a member of the minority party, appointed by the Speaker of the House; and

1 (3) one or two representatives from each of the following:

2 (i) the Department of Health and Mental Hygiene;

3 (ii) the Department of Housing and Community Development;

4 (iii) the City of Baltimore;

5 (iv) the Apartment and Office Building Association;

6 (v) the Coalition to End Childhood Lead Poisoning;

7 (vi) the Maryland Association of Realtors;

8 (vii) the Maryland Lead Poisoning Prevention Commission;

9 (viii) the Maryland MultiHousing Association;

10 (ix) the Maryland Property Owners Association; and

11 (x) a lead abatement contractors association.

12 (c) The study shall evaluate:

13 (1) current lead poisoning data, including housing and population
14 at-risk data from the United States Census, related to affected and nonaffected
15 properties to determine the populations most at risk in the State;

16 (2) lead poisoning data collection methods for affected and nonaffected
17 properties, including identification of data gaps and methods to fill them;

18 (3) outreach to and education of owners and tenants of nonaffected
19 properties;

20 (4) potential for expanding the applicability of the current Reduction
21 of Lead Risk in Housing law to nonaffected and noncompliant properties;

22 (5) long-term funding for lead poisoning prevention activities; and

23 (6) other issues the Department determines relevant to reducing the
24 incidence of lead poisoning in affected and nonaffected properties.

25 (d) On or before December 31, 2011, the Department of the Environment
26 shall report to the General Assembly, in accordance with § 2-1246 of the State
27 Government Article, on the results of the study required under subsection (a) of this
28 section.

1 SECTION 3. AND BE IT FURTHER ENACTED, That the Department of the
2 Environment shall adopt regulations related to reporting requirements of dust testing
3 laboratory results.

4 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
5 take effect January 1, 2012.

6 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
7 Section 4 of this Act, this Act shall take effect July 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.